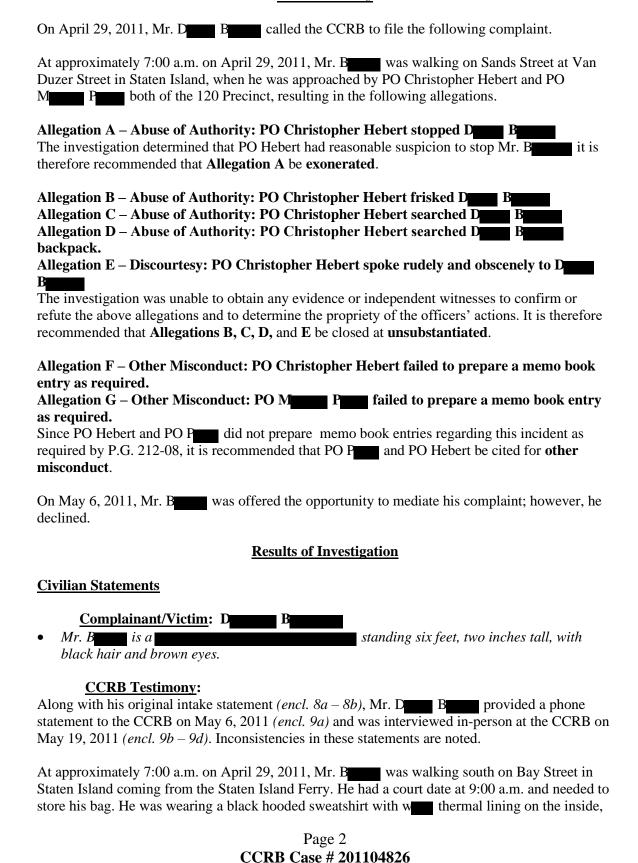
# CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force		Discourt.		U.S.
Joy Almeyda		Team # 1	201104826	✓ Abus	e 🗆	O.L.		Injury
Incident Date(s)		Location of Incident	:	Pre	ecinct:	S.O.L.	. Exp	ires:
Fri, 04/29/2011 7:00 AM		Van Duzer Street and Sands Street			120	10/29/2012		
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Date/	Time Receive	ed at CCRB		
Fri, 04/29/2011 7:37 AM		CCRB	Call Processing System	Fri, 04	4/29/2011 7	:37 AM		
Complainant/Victim	Type	Home Add	dress					
1. D B	Comp/Vi	ctim						
Subject Officer(s)	Shield	TaxID	Command					
1. POM Christophe Hebert	24213	943363	120 PCT					
2. POM M	00683							
Officer(s)	Allegatio	on			Investigato	r Recomn	nend	ation
A . POM Christophe Hebert	Abuse of B	Authority: PO Chris	topher Hebert stopped	D	A . Exoner	rated		
B . POM Christophe Hebert	Abuse of Authority: PO Christopher Hebert frisked D  B  B  B  Christopher Hebert frisked D  B  Christopher Hebert frisked D  Christopher Hebert frisked D							
C . POM Christophe Hebert	Abuse of Authority: PO Christopher Hebert searched D C. Unsubstantiated							
D . POM Christophe Hebert		Authority: PO Christoackpack.	topher Hebert searched	l D	D . Unsubs	stantiated		
E . POM Christophe Hebert	Discourte B	esy: PO Christopher I	Hebert spoke rudely to	D	E . Unsubs	tantiated		
F . POM Christophe Hebert	Other: Po		failed to prepare a men	mo book	F. Other N	/lisconduct		
G . POM M	Other: Po		ed to prepare a memo b	ook	G. Other I	Misconduct	-	

#### **Case Summary**



a well t-shirt, jeans, and a black North Face backpack. In his right sweatshirt pocket, he had napkins, receipts, and a MetroCard. In his left sweatshirt pocket, he had his tobacco pipe, a lighter, and three cigarette butts. In his right back pants pocket, he had only his wallet. Mr. Bestated that the wallet created a bulge in the pocket, but believed the bulge was in the shape of a wallet. In his right front pants pocket, he had ten dollars and in his left front pants pocket, he had tissue. His left back pocket was empty. Mr. Bestate backpack contained reading materials, a change of clothes, writing utensils, and paperwork in the larger pocket and the front pocket contained tissue, soap, lotion, a phone charger, and an mp3 player. The bag was somewhat full but nothing was bulging from it. Mr. Bestate turned west onto Sands Street and walked towards Van Duzer Street. He stopped for a minute because he was tired and disoriented, then crossed the street. There were brick-faced houses on one side of the street and townhouses on the other side. En route, Mr. Bestate did not make any stops and did not interact with anyone.

An unmarked silver Chevrolet Malibu or Dodge Intrepid, containing two officers in plainclothes, identified by the investigation as PO Christopher Hebert, who was driving, and PO Members both of the 120th Precinct, pulled up next to Mr. Become who was in the side path of the street, right past the island (separating Wave Street and Sands Street; see map encl.7a), in a driveway. Mr. Become described PO Hebert as a wear male between twenty and thirty-five-years-old, standing five feet, five inches to five feet, seven inches tall, weighing one-hundred-seventy pounds, with graying hair. He was dressed in a gray Abercrombie & Fitch shirt, dark blue jeans, and a black fleece jacket. Mr. Become also described PO Pembers as a wear male between thirty-five and forty-years-old, standing five feet, five inches tall, weighing between one-hundred-fifty and one-hundred-sixty pounds, with graying blond hair. He was dressed in a light gray shirt, light blue jeans, and a light blue Abercrombie & Fitch hooded sweatshirt. In his original complaint, Mr. Become provided shield numbers 21231 and 54123 for the officers, but noted that the officers did not show him their shields. In his in-person statement, Mr. Become noted that PO Pembers provided his shield number verbally and PO Hebert only showed him his shield and pointed towards his shield number.

PO Hebert asked Mr. Barre "What are you doing?" and said to, "Stop there." Both officers exited the vehicle and approached Mr. Barre PO Hebert asked him for his identification and reached for the wallet in Mr. Barre back pocket. Mr. Barre brushed the officer's hand away and asked, "What do you need my ID for? What am I being stopped for?" PO Hebert said, "Either you can give me your ID or you can get arrested." Mr. Barre handed the officer his identification and again asked why he was being stopped. PO Hebert informed him that there were reports of break-ins in the area and he fit the description of the perpetrator. The officers did not tell Mr. Barre the description. Mr. Barre asked whether they stopped him because he was a black male and neither officer responded. Mr. Books noticed that the officer's radio was silent and told the officer that they were profiling him.

At that point, PO Hebert received a radio communication asking him what he was doing and he reported that he had someone stopped and he was "running" him. Then PO Hebert's cell phone rang and he told the caller that he was talking to a perpetrator and he wanted to clear it up before he left to investigate a case regarding a stolen car. PO Hebert took Mr. Because identification back to the patrol car to run a warrant check. When PO Hebert returned, he frisked Mr. Because right sweatshirt pocket and then entered it, frisked his left sweatshirt pocket, and entered it as well, removing the tobacco pipe and examining it. He then entered Mr. Because left front pants pocket and removed the tissues. He also removed Mr. Because wallet from his back pants pocket,

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examined it and rearranged the cards in it. He then placed the wallet in Mr. B sweatshirt pocket. At the beginning of the search, Mr. But asked why he was being searched. PO Put said, "If you're not going to be quiet, we're going to cuff you." Mr. Be then informed the officers that he had done nothing wrong and that if they were going to search and detain him, he wanted to know what he was being stopped for. PO P replied, "It's for our own safety to detain you," and handcuffed Mr. B As PO Hebert was frisking and searching Mr. Butter he asked Mr. Butter why he was being stopped and asked why he was out so early in the morning. Mr. Barranger replied that he was homeless and had two children in ACS custody. PO Hebert then called Mr. B "degenerate" (in his phone statement, Mr. Bassa alleged that it was PO Passa who called him the name) and said, "That's why you're going through these problems. If you were a real man, vou would be at home right now." Mr. Butter replied, "You're no better than me. You're stopping people and harassing them when there are real crimes being committed at this point. I know my rights." PO Per then told Mr. Ber "If you know your rights, then you would not have stopped over there." PO Hebert continued to "demean" Mr. But who argued back and forth with the officer. During this conversation, Mr. Bernel spoke in what he considered to be a normal tone of voice with sarcastic undertones. Mr. Based said, "You don't understand people's circumstances, there's always reasons behind stuff." PO Hebert replied, "Well, you're drunk this early in the morning." Mr. Bassa asserted that he was not drunk and informed the officer that he had been drinking at 2:00 a.m. and did not brush his teeth. After PO Hebert searched Mr. Branch person, PO Press entered Mr. Branch backpack. In his phone statement on May 6, 2011, Mr. B alleged that PO Hebert searched both pockets of his backpack. Mr. Bassa did not allege that his backpack was searched at all during his initial complaint. PO Hebert told Mr. Beases "You need to be quiet. You're disrupting people in their houses when they're trying to sleep." Mr. But told the officers that he was not breaking any laws or sound ordinances. Meanwhile, an elderly black male parked his burgundy Dodge Caravan nearby and stood on the stairs of a house, watching the incident occur for one minute before entering his home, two houses away from where Mr. B was standing. The house had w vinyl siding with burgundy paint and had a six-foot black gate in front of it. PO Hebert said, "Well that's why that guy is staring at you," referring to Mr. Bearth disturbing the residents. One of the officers informed Mr. But that he was going to take him in. Mr. But informed the officers that he had to go to the court house on Richmond Terrace for a court case, as he was currently out on bail. PO Hebert said that Mr. But was not going to make it to his court date. PO P said to PO Hebert, "Do you think he has anything?" to which PO Hebert replied, "I don't think he's that stupid. If he keeps talking like this, he shouldn't have anything." PO Hebert entered the patrol car and issued Mr. Butter summons 433112733-3 for disorderly conduct, subsection 2 (making unreasonable noise), shoved the summons into Mr. B wallet and released him from handcuffs. Mr. B admitted that he used some "obscenities" at this point in the interaction,

but it was because he was upset.

## **Attempts to Contact Civilians**

On June 28, 2011, the undersigned investigator conducted a canvass of the vicinity of Van Duzer Street and Sands Street in Staten Island. None of the houses in the area matched the description provided by Mr. Because so the investigator approached all of the houses with gates in front of them, as Mr. Because said that the house had a gate. No one recalled the incident and please call letters were left both with individuals in person and at the relevant homes.

#### **NYPD Statements:**

# Subject Officer: PO CHRISTOPHER HEBERT PO Hebert is a eyes and brown hair.

• On April 29, 2011, he worked from 5:00 a.m. to 1:35 p.m. on a SNEU assignment with PO

The officers were dressed in plain clothes and were assigned to an unmarked Impala, vehicle number 386.

#### Memo Book:

PO Hebert did not have any memo book entries regarding this incident (encl. 10a - 10b).

# **Summons:**

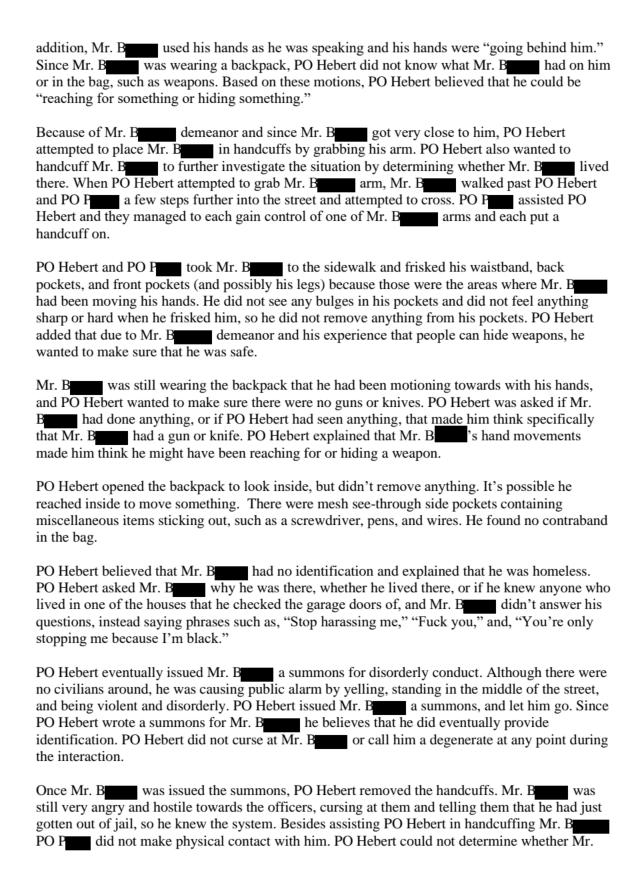
PO Hebert issued Mr. Best summons 43312733-3 (encl. 10c) for disorderly conduct, subsection two. On the back of the summons, PO Hebert wrote, "Def. was blocking vehicular traffic while standing purposely in the middle of street. Deft. was yelling and screaming/cursing causing public alarm."

#### **CCRB Testimony:**

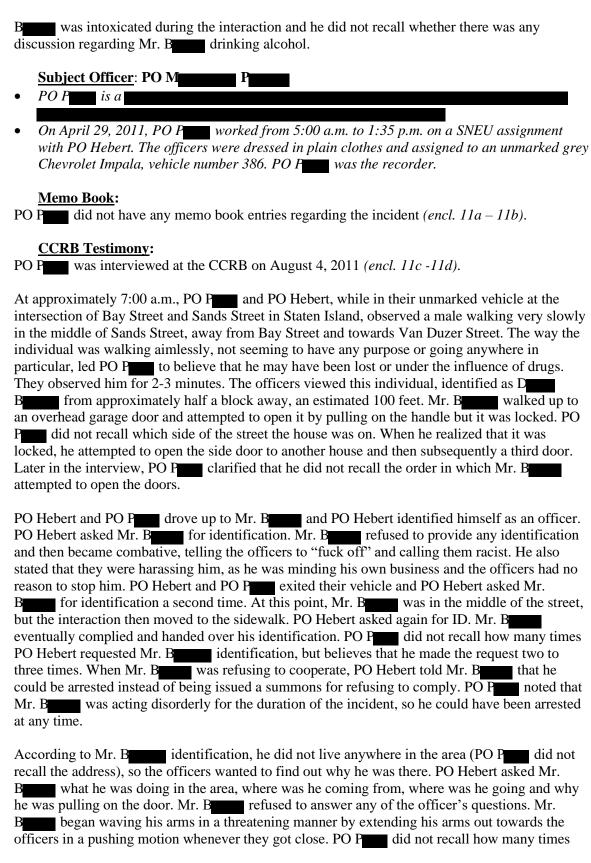
PO Christopher Hebert was interviewed at the CCRB on July 21, 2011 (encl. 10d - 10f).

At approximately 7:00 a.m., PO Hebert, who was driving his vehicle on Bay Street, facing Sands Street, saw a black male, later identified as Mr. Desail Black walking on Sands Street, near Bay Street. PO Hebert drove around one short block and parked with his vehicle back on Bay street, facing Sands Street and saw Mr. Bears in the same spot. PO Hebert saw him approach a driveway that led to three garage doors on Sands Street. Mr. B pulled on the handle of each of them and kept walking. It looked to PO Hebert as though Mr. B was trying to open the doors. Both PO Hebert and PO P made the same observation but it was PO Hebert's decision to stop Mr. Been PO Hebert did not have a discussion with PO P but told him, "[Mr. pulled on those doors. Let's see if he lives there." PO Hebert observed Mr. B approximately ten minutes from the first time he saw Mr. Because burglaries had previously occurred in the area and the number of burglaries in the surrounding blocks had increased, PO Hebert drove closer to Mr. But with the intent to stop him, to see whether Mr. lived at one of the residences or whether he knew someone who lived there. PO Hebert parked his car. At that point, Mr. Bear had already walked onto the sidewalk from the driveway of one of the houses. When PO Hebert exited the vehicle, he asked, "Can you come here for a second?" Mr. Begin began walking towards him and into the street. Mr. Begin demeanor was very violent and hostile and he walked towards PO Hebert "like he was ready to be in a fight," saying, "Fuck you. Don't bother me," and was moving his hands around by waving them in front of him and around his waistband and back pocket. PO Hebert felt threatened by Mr. Back actions. In

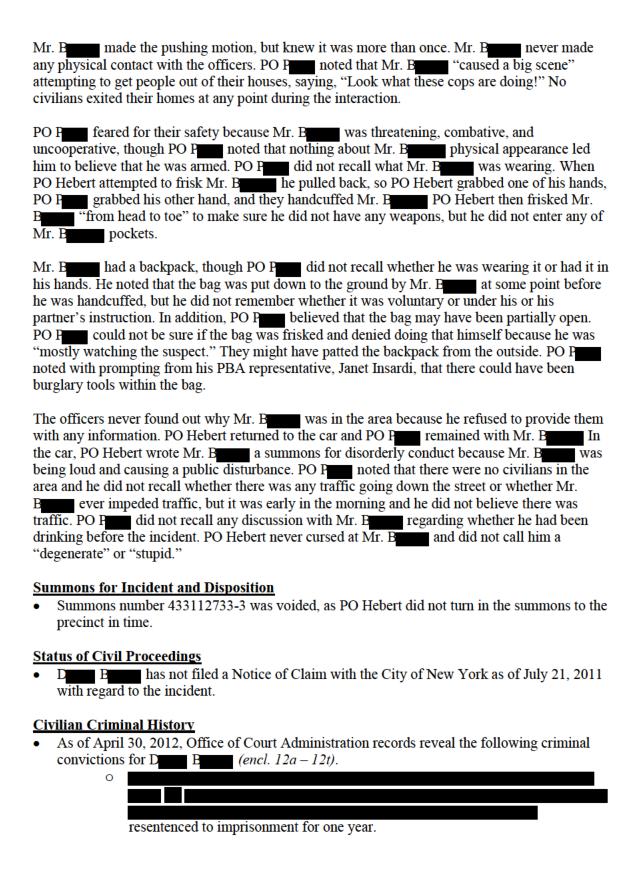
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# Civilian CCRB History

• This is the first CCRB complaint filed by D B (encl. 6a).

#### **Subject Officer CCRB History**

 PO Christopher Hebert has been a member of the service for four years and there are no substantiated CCRB allegations against him. (encl. 5a).

#### **Conclusion**

#### **Identification of Subject Officers**

- The officers were consistent that PO Hebert initiated the stop; therefore **Allegation A** is being pleaded against PO Hebert.
- Mr. Bases alleged that PO Hebert frisked him, searched him, and called him a "degenerate." PO Hebert confirmed that he was the officer who primarily made physical contact with Mr. Bases so Allegations B, C, and E are being pleaded against him.
- Although Mr. Bear alleged that PO Per entered his backpack, PO Per and PO
  Hebert were consistent that PO Per did not inspect the backpack, so Allegation D is
  being pleaded against PO Hebert.

## **Investigative Findings and Recommendations**

Allegation A – Abuse of Authority: PO Christopher Hebert stopped D

PO Hebert and PO P

were consistent with each other, testifying that they both saw Mr.

B

attempt to open several garage/side doors. Although Mr. B

never stated that he attempted to pull open any doors, he testified that he had stopped for a minute because he was tired and disoriented and then entered a driveway of a residence of which he did not reside. Mr. B

further stated that the officers made statements to him about break-ins in the area, which adds credibility to the officers' statements. Thus, the investigation credits the officers' testimony that Mr. B

was attempting to pull open the garage doors. According to People v. De Bour, 40 N.Y.2d 210 (1976) (encl. 4a-4m), an officer can forcibly stop any individual who they reasonably suspect is committing, has committed, or about to commit a felony or penal law misdemeanor. Based on the officers' testimony, seeing Mr. B

attempt to open several different garage doors and then walking away when he could not open them caused them to suspect that he did not live at these residences and therefore was attempting to illegally gain entry, which would justify them stopping him to investigate whether he had reason to attempt to open the doors. It is therefore recommended that Allegation A be closed as exonerated.

Allegation B – Abuse of Authority: PO Christopher Hebert frisked D

Allegation C – Abuse of Authority: PO Christopher Hebert searched D

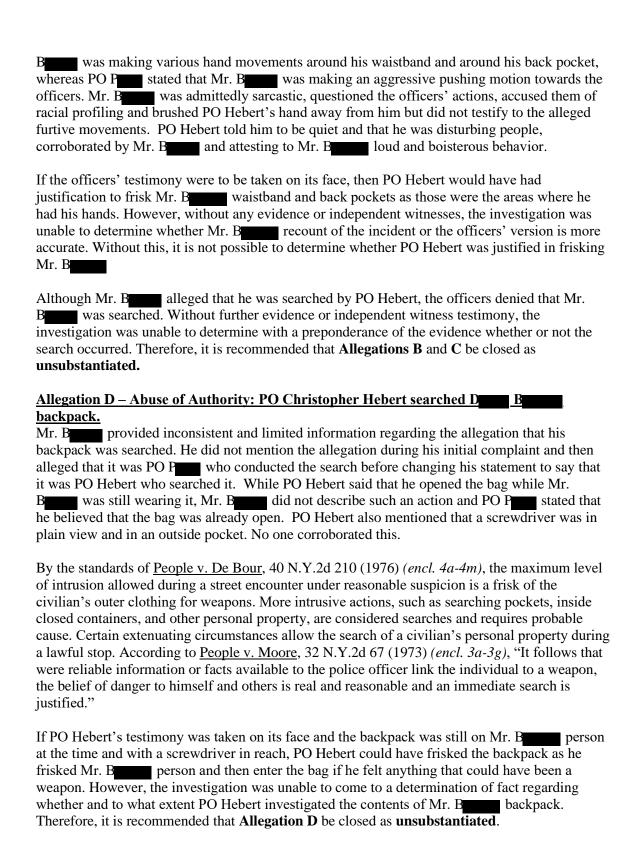
Although it is undisputed that PO Hebert and PO P

Begin actions prior to the frisk and whether PO Hebert searched Mr. B

was acting disorderly, cursing and yelling at the officers from the beginning of the interaction and moving his hands in an aggressive manner. Because of these actions, the officers feared for their safety, so they handcuffed Mr. B

without ever entering his pockets. The officers were inconsistent in that PO Hebert stated that Mr.

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Allegation E – Discourtesy: PO	<u>Christopher Hebert s</u>	poke rudely and obscer	nely to D
Mr. Base alleged that PO Heber Base a degenerate, which PO P witness testimony, the investigation Therefore, it is recommended that	corroborated. Becon was unable to confin	m or refute Mr. B	y independent
Allegation F – Other Misconduc	et: PO Christopher H	ebert failed to prepare :	a memo book
entry as required by Patrol Gui		•	
Allegation G – Other Misconducas required by Patrol Guide Pro		failed to prepare a men	<u>no book entry</u>
Since PO Hebert and PO Particle store entries to document their actions. officers are instructed to accurate lobserved/suspected violation of la However, neither PO Hebert nor Etheir interaction with Mr. Butter cited for <b>Other Misconduct</b> .  Team:1	According to NYPD Pays record "information w, i.e., action taken, not made any not	nation Guide Section 212- pertinent to an assignment parrative disposition, formation in their memo bool	08 (incl. 2a-2c), at or as prepared."
Investigator:			
Signature	Print	Date	
Supervisor:			
Title/Signature	Print	Date	<del></del>
Reviewer:	Print	Date	
Title/Signature	riiii	Date	
Reviewer:			
Title/Signature	Print	Date	